HON'BLE SRI JUSTICE N.V. RAMANA

W.P.No.3902 of 1999

Dated **7th November** 2007

Between:

Neelapu Siva Prasad Reddy,
Visakhapatnam.

……Petitioner

and

Andhra University,
Waltair, Visakhapatnam rep. By its Registrar and others.

……..Respondents.

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ORDER:

This Writ Petition is filed seeking a Mandamus declaring the action of respondent No.1-University in appointing the petitioner as Helper instead of appointing him as Record Assistant, as illegal and arbitrary and consequently direct the respondents to consider the case of the petitioner for appointment to the post of Record Assistant or in any equivalent post.

The petitioner states that his father, namely N. Chandralingam died in harness on 09.05.1994, while working as Superintendent in respondent No.1-University. Thereafter, based on the application made by him to respondent No.1-University, he was appointed on daily wages as Record Assistant (Class-III Post) on 27.5.1997 on compassionate grounds. The case of the petitioner is that though he is eligible and qualified to continue as Record Assistant, he was appointed in the post of Helper, which is a Class-IV post. Questioning the

said action of the respondents in appointing him in the post of Helper instead of Record Assistant, the petitioner filed the present writ petition.

A counter affidavit is filed by the respondents *inter alia* stating that though the petitioner is eligible to hold the post of Record Assistant, since the limited vacancies of Record Assistants, which are available, have been filled up as per the seniority, and at present as there is no vacancy of Record Assistant, the petitioner was appointed as Helper in the available vacancy, and the question of considering the petitioner for the post of Record Assistant does not arise.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents.

The contention of the petitioner is that though he is eligible and qualified to continue as Record Assistant (Class III post) and in spite of availability of said vacancies, he was appointed in the post of Helper (Class IV post), while it is the case of the respondents that since the limited vacancies of Record Assistants, which are available, have been filled up as per the seniority, and at present as there is no vacancy of Record Assistant, the petitioner was appointed as Helper in the available vacancy. Mere possession of qualification cannot be the basis for securing appointment of Record Assistant.

Unless and until a clear vacancy exists, the petitioner cannot insist on the

respondents to appoint him as Record Assistant. Apart from that the petitioner's appointment itself is on the basis of consideration of the circumstances of his family members because of the death of his father. In that view of the matter, I see no reason to interfere with the action of the respondents in appointing the petitioner as Helper.

The writ petition is devoid of merit and the same is accordingly dismissed. No costs.

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(N.V. RAMANA, J)

Dt.07-11-2007
MRB